## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)
Plaintiff,	) 8:04CR46 )
vs.	) ORDER
JUAN CARLOS VERA,	)
Defendant.	)

This matter is before the court on the motion to continue by defendant Juan Carlos Vera (Vera) (Filing No. 77). Vera seeks a continuance of the trial of this matter now scheduled for November 27, 2006, until an anticipated Petition for Certiorari is disposed of by the U.S. Supreme Court. Counsel represents that the deadline for filing such a petition is December 27, 2006. Vera's counsel represents that counsel for the government has no objection to the motion. Vera has submitted an affidavit in accordance with paragraph 9 of the progression order whereby Vera consents to the motion and acknowledges he understands the additional time may be excludable time for the purposes of the Speedy Trial Act (Filing No. 78). Upon consideration, the motion will be granted.

## IT IS ORDERED:

- 1. Vera's motion to continue trial (Filing No. 77) is granted.
- 2. Trial of this matter scheduled for **November 27**, **2006**, before Chief Judge Joseph F. Bataillon and a jury is canceled. Trial will be rescheduled following the disposition of any petition by Vera seeking certiorari from the U.S. Supreme Court. If no such petition is filed, trial will be rescheduled upon notice by counsel or on December 28, 2006, whichever first occurs. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendant in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **November 14**, **2006** and **December 28**, **2006**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendant's counsel requires additional time to prepare a further interlocutory appeal. 18

U.S.C. § 3161(h)(1)(E). The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

3. Counsel for Vera shall file a report with the court either when such a petition for certiorari is filed or in the event Vera decides to not file such a petition for certiorari.

DATED this 14th day of November, 2006.

BY THE COURT:

s/Thomas D. Thalken United States Magistrate Judge